



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF MANAGEMENT

February 18, 2011

Jason Smathers
MuckRock
185 Beacon Street, #3
Somerville, MA 02143

RE: FOIA Request No. 11-00527-F

Dear Mr. Smathers:

This letter is in response to your e-mail dated December 20, 2010, requesting information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You asked for copies of all records referencing the five oldest FOIA and Privacy Act requests which are still being processed that contain remarks, comments, notes, explanations, etc. made by your personnel or contractors about the processing of these requests (and appeals, if appropriate), the invocation of exemptions, or related matters. This is to include any analysts' notes made during the processing of the requests, any standard worksheets completed by the analysts, any justifications for exemption invocations or other supporting documentation provided to the Appeals Authority, and any correspondence referencing the requests, including tasking orders, emails, and coordination documentation.

Enclosed is a CD containing 47 pages of documents responsive to your request. However, certain information has been withheld according to the FOIA exemptions specified below:

- Information is exempt from disclosure under the FOIA, 5 U.S.C. § 552(b)(2). This provision exempts from disclosure predominantly internal matters of a substantial nature, the disclosure of which would risk the circumvention of a statute or Department regulation.
- Information under exemption (b)(5) and Departmental regulation at 34 C.F.R. § 5.73(a). These provisions exempt from disclosure information that is part of the deliberative process, and allow Department employees to engage in frank and open discussion of issues, and to express their views, opinions and recommendations without fear of outside pressure. Moreover, deliberative materials are released as a matter of administrative discretion to the extent the release of such information would not have a foreseeable chilling effect on the Department's ability to obtain frank commentary and cooperation from advisors. Information in this category includes draft decision memo, draft response letters, e-mail communication providing recommendations, suggestions and opinion on those draft documents, and requests for legal advice and guidance and responses thereto.
- Personal information on individuals has been withheld under exemption (b)(6) of the FOIA, 5 U.S.C. § 552(b)(6) and Departmental regulation 34 CFR § 5.71(a). Disclosure of this information would constitute a clearly unwarranted invasion of personal privacy.

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You have the right to appeal this decision by writing to the address below 35 days from the date of this letter. Your appeal should be accompanied by a copy of your initial letter of request and this denial letter, and should contain any evidence or argument you wish the Department to consider in making an administrative determination on your appeal.

Appeal Address:

U.S. Department of Education
Office of Management
400 Maryland Avenue, SW, LBJ-2W311
ATTN: Appeals Office
Washington, DC 20202-4500

Or, you may complete the online FOIA appeal form, located at:
http://www.ed.gov/policy/gen/leg/foia/foia_appeal_form_1.html.

We regret the delay in replying to your request. If you have any questions, please contact the FOIA Service Center at (202) 401-8365 or EDFOIAManager@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Maria-Teresa Cueva", with a stylized flourish at the end.

Maria-Teresa.Cueva
FOIA Public Liaison, OM/RIMS

Enclosures